

TAB P

VOLUME: I
PAGES: 1 - 120
EXHIBITS: 1 - 11

UNITED STATES DISTRICT COURT
District of Massachusetts

CYCLE-CRAFT CO., INC.)
d/b/a BOSTON)
HARLEY-DAVIDSON/BUELL,)
Plaintiff,)
VS.) Case No.
04 11402 NMG
HARLEY-DAVIDSON MOTOR)
COMPANY, INC., and BUELL)
DISTRIBUTION COMPANY, LLC.)
Defendants.)

VIDEOTAPED DEPOSITION OF JEFFREY P.
CHRISTENSEN, a witness called by and on behalf
of the Defendants, taken pursuant to the
applicable provisions of the Federal Rules of
Civil Procedure, before Sandra L. Bray,
Registered Diplomat Reporter, CSR Number
103593, and Notary Public in and for
Commonwealth of Massachusetts, at the offices of
Boynton Waldron Dolcaci Woodman & Scott, P.A.,
82 Court Street, Portsmouth, New Hampshire, on
Wednesday, April 6, 2005, commencing at
9:58 a.m.

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1 house?

2 A. Right.

3 Q. Could you describe the business of Lee Custom
4 Cycle for me?

5 A. We buy Harleys -- used Harleys and try to sell
6 them for a profit.

7 Q. And who makes the decision whether to buy a
8 particular bike?

9 A. I do.

10 Q. Anybody else besides yourself?

11 A. Sometimes I talk them over with Dave, my office
12 manager.

13 Q. That's Mr. Karp?

14 A. Yes, sir.

15 Q. And who makes the decision to sell the bikes?

16 A. We both do, Dave and myself.

17 Q. Okay. Do you also sell new Harley-Davidsons?

18 A. We've had a couple come in that we've done, but
19 we're not an authorized dealership, and we tell
20 everybody that.

21 Q. But on occasion, you have sold new Harley-
22 Davidsons?

23 A. Yes, sir.

24 Q. And Lee Custom Cycle, the business is primarily

1 Q. Okay. Do you recall that Lee Custom Cycle
2 purchased bikes from Boston Harley-Davidson in
3 2003?

4 A. I don't believe that we directly purchased them.
5 I mean we got them from there, but through, you
6 know, Donald's name, Robbie's name, and all that
7 stuff.

8 Q. And how did it come about that you used those
9 individuals' names?

10 A. Because they have to do title work. They have
11 to have somebody's name for the stuff.

12 Q. How were you aware you had to use individuals'
13 names for the title work?

14 A. That's what everybody always says; you know, you
15 have to have somebody's name to put the title
16 in.

17 Q. And who told you that?

18 A. I've just been a dealer for years. I know
19 that's how the game works. You've got to have
20 somebody's name.

21 Q. Did you have any conversations with Boston
22 Harley-Davidson about getting individuals' names
23 for use on title work?

24 A. Probably Jason.

1 Q. Okay. Do you recall what conversations you had
2 with Jason concerning that?

3 A. Yeah, just "You've got to have some names to put
4 them in." He can't sell them to Lee Custom
5 Cycle.

6 Q. And did he advise you why he couldn't sell them
7 to Lee Custom Cycle?

8 A. No. He just says he needs some names to put
9 them in.

10 Q. So Jason advised you that he needed individual
11 names to put the bikes in?

12 MS. SMAGULA: Objection.

13 A. I believe so.

14 Q. And how did you respond?

15 A. Get some names.

16 Q. You agreed to get some names?

17 A. Correct.

18 Q. And how did you get those names?

19 A. Just through my friends. "Do you want to put a
20 bike in your name?"

21 Q. Do you recall having those conversations?

22 A. Yes, a little bit.

23 Q. What's that?

24 A. A little bit, yeah.

1 Q. Why didn't you just use checks from Lee Custom
2 Cycle?

3 A. Because nobody does titles unless you've got a
4 bank check. It's not a done deal because
5 somebody does a title, the check bounces, and
6 the person is gone with the bike, the car. It's
7 not a good practice to do titles without
8 certified funds.

9 Q. Did any of the funds come from your individual
10 account, personal account?

11 A. For those motorcycles?

12 Q. Yes.

13 A. Yes, they all did.

14 Q. From Lee Custom Cycle's accounts?

15 A. Yes.

16 Q. Not from Jeff Christensen's account, from Lee
17 Custom Cycle's accounts?

18 A. It's one and the same.

19 Q. Okay. So for the five or eight motorcycles that
20 you purchased from Boston Harley-Davidson, the
21 funds all came from Lee Custom Cycle's accounts?

22 MS. SMAGULA: Objection.

23 A. Correct.

24 Q. Is that correct, sir?

1 A. Correct, but there probably wasn't any memo or
2 anything on them.

3 Q. So David Karp didn't provide any individual
4 funds?

5 A. No.

6 Q. Anne Karp didn't provide any individual funds?

7 A. No.

8 Q. Robert Issa didn't provide any funds?

9 A. No.

10 Q. Donald Rist didn't provide any funds?

11 A. No.

12 Q. Michael Dellacroce did not provide any funds?

13 A. No.

14 Q. Greg Gallagher did not provide any funds?

15 A. No.

16 Q. And Denise Gallagher did not provide any funds?

17 A. No.

18 Q. If you look back on Exhibit 2, Mr. Christensen,
19 do you see the price for that motorcycle on the
20 right-hand column?

21 A. Yep.

22 Q. Do you recall having any negotiations with
23 any --

24 A. Excuse me. Negotiations as far as what?

1 Q. I'm sorry. I didn't finish my question. Do you
2 recall having any negotiations with any
3 representative of Boston Harley concerning the
4 price of these motorcycles?

5 A. Probably just Jason.

6 Q. And do you recall what conversations you had had
7 with them?

8 A. No. I think they had a lot of extra bikes, and
9 they just wanted to sell them, you know. They
10 made so many of them that year that they were
11 everywhere.

12 Q. So Jason advised you that Boston Harley-Davidson
13 wanted to sell those motorcycles?

14 A. Yeah, well, they wanted to sell all their bikes,
15 just like I want to sell all my bikes.

16 Q. And these were the new motorcycles, correct?

17 A. Yeah.

18 Q. And these are conversations you on behalf of Lee
19 Custom Cycle had with Jason?

20 MS. SMAGULA: Objection.

21 A. Correct.

22 Q. Did you have conversations with Jason concerning
23 the eight motorcycles set forth on Exhibit 2?

24 MS. SMAGULA: Objection.

1 A. Probably. Like I said before, I might have got
2 a list and said, "These are the ones I want."
3 Jason was a very aggressive salesman, a real
4 nice guy, and he just wanted to sell
5 motorcycles.

6 Q. And at that time, you were willing to purchase
7 those motorcycles?

8 A. Sure. I'll buy them all the time. I buy bikes
9 every day.

10 Q. And looking at Exhibit 2, does that refresh your
11 recollection at all how many motorcycles Lee
12 Custom Cycle purchased?

13 MS. SMAGULA: Objection.

14 A. Yes.

15 Q. How many did Lee Custom Cycle purchase?

16 MS. SMAGULA: Objection.

17 A. Well, if there's -- what did it come out to,
18 seven? Two, three, four, five, six, seven. I
19 think seven. I think Denise is down here twice;
20 isn't she? Oh, no. Looks like eight.

21 Q. So looking at Exhibit 2, does that refresh your
22 recollection that Lee Custom Cycle purchased
23 eight motorcycles from Boston Harley?

24 MS. SMAGULA: Objection.

1 A. Seven, eight, yes. Yes, I'm surprised one's in
2 my name, though.

3 Q. And why are you surprised that one's in your
4 name, Mr. Christensen?

5 A. Well, usually I can't buy any new bikes in my
6 name.

7 Q. And if you look back on Page 1, Mr. Christensen,
8 on the bottom, there's a signature down on the
9 left. Do you recognize that signature?

10 A. Looks like Jason's.

11 Q. How about there's initials on the right,
12 dealer's signature? Do you recall who that is?

13 A. No.

14 MR. BENSON: Would you mark this as
15 Exhibit 3, please?

16 (Motorcycle Bills of Sale were marked
17 Exhibit Number 3 for identification.)

18 Q. Mr. Christensen, can you take a look at what's
19 been marked as Exhibit 3? Take a look at that,
20 and let me know whether you recognize these
21 documents.

22 A. Yes, these look like the bill of sales for all
23 the bikes. Yep. I think everybody went down
24 and signed individually for them.

1 his house?

2 A. No.

3 Q. How about Donald Rist? Did he ever have a new
4 Harley-Davidson --

5 A. No.

6 Q. -- from Boston Harley-Davidson at his house?

7 A. No.

8 Q. How about Michael Dellacroce?

9 A. No.

10 Q. Did he ever have a new Harley-Davidson from
11 Boston Harley-Davidson at his house?

12 A. No.

13 Q. How about Greg Gallagher? Did he ever have a
14 new Harley-Davidson from Boston Harley-Davidson
15 at his house?

16 A. No.

17 Q. How about Denise Gallagher? Did she ever have a
18 new Harley-Davidson from Boston Harley-Davidson
19 at her house?

20 A. No.

21 Q. Okay. So all the motorcycles which are set
22 forth on Exhibit 3, those are motorcycles that
23 were purchased by Lee Custom Cycle?

24 MS. SMAGULA: Objection.

1 A. Correct.

2 Q. And they were brought to your dealership in Lee,
3 New Hampshire?

4 A. Correct.

5 Q. And all eight motorcycles were then sold by Lee
6 Custom Cycle?

7 MS. SMAGULA: Objection.

8 A. Right.

9 Q. And they were sold to other individuals,
10 correct?

11 A. Correct.

12 Q. Lee Custom Cycle never sold a motorcycle to
13 David Karp; is that correct?

14 A. No.

15 Q. Did it sell a motorcycle to Anne Karp?

16 A. No.

17 Q. Did it sell a motorcycle to Robert Issa?

18 A. No.

19 Q. Did it sell a motorcycle to Donald Rist?

20 A. No. We sold them to Robert Issa, but not one of
21 these '03's.

22 Q. Not one of these new '03's. Didn't sell one of
23 these motorcycles to Michael Dellacroce?

24 A. Not one of these. We sold him other bikes.

1 Q. Let me know whether you've seen these drivers'
2 licenses before.

3 A. Yeah.

4 Q. When do you recall seeing these?

5 A. I don't know. I know these guys, so I've seen
6 their license before.

7 Q. Do you recall providing these licenses to Boston
8 Harley-Davidson, copies of these licenses?

9 MS. SMAGULA: Objection.

10 A. These people must have gone in and then given
11 them to him when they signed the titles and
12 everything like that.

13 Q. Do you have any knowledge of that?

14 A. That's what we always do. That's what they must
15 do. When you go to buy the thing, to get the
16 title, they want a copy of your license.

17 Q. But these individuals did not purchase the
18 motorcycles themselves, is that fair to say?

19 A. Yeah, but the whole --

20 MS. SMAGULA: Objection. Sorry.

21 A. The whole thing, did Jason know that these were
22 going to Lee Custom Cycle? Yeah. Did Boston
23 Harley know they were going to Lee Custom Cycle?
24 Probably not. Did Jaime know they were going to

1 Lee Custom Cycle? Yes, but they needed
2 individuals' names. So what she was doing was,
3 you know, procedure. They come in, they're
4 buying a bike, here's their license, here's the
5 title, et cetera, but like I say, Jason was an
6 aggressive sales guy, he wanted to sell a lot of
7 bikes, just like I am. So we got along good.

8 To summarize this whole thing up,
9 yeah, they need names to put the titles in and
10 stuff like that. You know, Jason and I talked
11 about that. We know that. These bikes are
12 getting bought for us. These are employees and
13 friends. They don't care if they go down there.
14 Then they get free stuff in the mail and updates
15 from Harley-Davidson and stuff like that. Go
16 down there, buy a couple bikes, have dinner out
17 on me. Then we go back down and pick up the
18 bikes, you know.

19 Q. So you recall having discussions with Jason
20 about getting the licenses and the title signed?

21 A. He just says, "They've got to go in somebody's
22 name." I know that. Somebody's name has got to
23 be on them.

24 Q. That's a discussion you had with Jason?

1 A. Correct. Did anybody else there know? I don't
2 know. I don't think so.

3 Q. Jason was a salesman at Boston Harley?

4 A. Yes.

5 Q. And he knew the bikes were going to Lee Custom
6 Cycle?

7 MS. SMAGULA: Objection.

8 A. Right.

9 Q. And Jaime McGrath worked at the Boston
10 Harley-Davidson?

11 A. Right. And she knows these are all my friends
12 and stuff like that from conversation with her.
13 But does she know they're all going to Lee
14 Custom Cycle? No, but probably. I don't know.

15 Q. So she probably knew they were going to go to
16 Lee Custom Cycle?

17 MS. SMAGULA: Objection.

18 A. Yeah. She probably knew that most of them were,
19 but she was so busy in that office. She had
20 eight million things going all at once all the
21 time anyways.

22 Q. So you had conversations with her about your
23 friends coming down to Boston Harley-Davidson?

24 MS. SMAGULA: Objection.

1 about that we bought out of there.

2 Q. And these are the eight motorcycles that Lee
3 purchased from Boston Harley-Davidson?

4 A. Well, individuals purchased them for us
5 indirectly.

6 Q. But these individuals never took possession of
7 the motorcycles?

8 MS. SMAGULA: Objection.

9 A. No.

10 Q. These motorcycles went directly to Lee Custom
11 Cycle?

12 MS. SMAGULA: Objection.

13 A. Correct.

14 Q. Okay. And Jason was aware -- Jason at Boston
15 Harley was aware that the motorcycles were going
16 to Lee Custom Cycle?

17 MS. SMAGULA: Objection.

18 A. Correct.

19 Q. I'd like to just ask you a question about one of
20 these documents. If you go to -- if you go sort
21 of midway, there's documents concerning --
22 there's a bike that has Robert Issa on the bill
23 of sale?

24 A. Correct.